IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.305 OF 2006
IN
SUMMONS FOR JUDGMENT NO.3 OF 2005
IN
SUMMARY SUIT NO.3491 OF 2004

M/s.Indokem Limited ..Appellants.
(Orig.Defendants)

Vs.

Kalpesh H. Vora ..Respondents.
(Orig.Plaintiffs)

Mr.S.G.Gokhale for the Appellants.

Mrs.Neeta Solanki i/b.M/s.Kiran Jain & Co. for the Respondents.

CORAM: DR.S.RADHAKRISHNAN AND S.J.VAZIFDAR, JJ.
DATED: 25TH JULY, 2006

P.C. :

Heard the learned counsel for the Appellants and the learned counsel for the Respondents.

2. The Appeal is admitted. The learned counsel for the Respondents waives service. By consent, taken up for hearing.

3. By this Appeal, the Appellant is challenging the order dated 17.10.2005 whereby the learned Single Judge had granted conditional leave to the Appellants to defend the Summary Suit after depositing a sum of

Rs.7,00,000/- within a period of four weeks. It appears that the Appellants did not comply with the same and, accordingly, now a decree has been passed 17.7.2006.

4. After hearing the parties for some time, both the parties are agreeable that the order of decree dated 17.7.2006 be set aside and both of them categorically state that no reasons needs to be given. Accordingly, the decree dated 17th July, 2006 stands set aside.

5. The learned counsel for the Appellants is agreeable to deposit a sum of Rs.7,00,000/- within a period of four weeks, as indicated in order dated 17.10.2005.

6. It is made clear that if the Appellants deposits the said sum of Rs.7,00,000/-, the Appellants shall be granted conditional leave to defend the suit. In the event the Appellants fail to deposit the said sum of Rs.7,00,000/-, decree dated 17.7.2006 shall stand revived.

7. The learned counsel for the Respondents seeks leave to withdraw the aforesaid sum of Rs.7,00,000/-.

8. By consent, the Respondents are permitted to withdraw the said sum of Rs.7,00,000/- by furnishing security to the satisfaction of the Prothonotary and Senior Master, including interest, provisionally fixed at 8% per annum.

9. Discovery and Inspection to be completed and the Appellants are permitted to file their written statement within a period of six weeks after the deposit of Rs.7,00,000/-.

10. In view of the above, the Appeal stands disposed of.

(DR.S.RADHAKRISHNAN, J.)

(S.J. VAZIFDAR, J.)